

January 9th, 2024

Honorable Judge John Dorsey

824 N Market St

5th Floor, Courtroom 5

Wilmington, DE 19801

302-533-3169

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US BANKRUPTCY COURT
DISTRICT OF DELAWARE

RE: Letter in Opposition Of: *Motion of Debtors to Estimate Claim Based on Digital Assets*. Case No. 22-11068 (JTD). Hearing Date: January 25th, 2024 at 10 AM (EST). Submitted by Gabriel Munoz Moreno as a FTX Creditor.

Dear Judge John Dorsey,

I hope this letter finds you well and your new year is starting with great health. I apologize for having to write you directly regarding the FTX bankruptcy process and taking your precious time, I am finding no other way to seek justice for affected FTX customers like myself, who were damaged by the break of the Terms of Services (ToS) of FTX. These ToS protected customer assets. These assets, however, were used to pay for every operation that FTX did, including investments that have increased in value. The decision to write you this letter was taken just after the latest Estimation Motion in which customers claims are dollarized per Nov 11 2022, which marks almost the bottom of the crypto market. (FIND EXACT MOTION)

My background is architecture, I had the opportunity to study at Harvard University, where I was introduced to the cryptocurrency market in 2017 by some colleagues. The technological advancements and empowerment of the individual led my passion for this market. In 2021, I started operating in FTX, as it inspired confidence due to its presence in the US market, its involvement in US political campaigns, and its relations with US entities such as the SEC. Its ToS established very well how customer funds were taken care off, but little I knew, as other customers, of the reality of what was going on. In my case, it resulted on 4 Bitcoin stuck in the platform, an asset that I worked very hard to achieve and a value that was hoping to serve as a safety net for myself and loved ones.

Please let me elaborate some of the main points of why I am writing you today. I would greatly appreciate your patience and understanding given that I am not educated in law, nor in bankruptcy procedures, however I believe to have a common sense for fair and equal treatment:

The process is leading to significant losses for creditors

Currently there are over \$500 million in fees since the FTX bankruptcy process started. This is being taken from funds that benefit customer recovery. The longer this process takes, the better for those consuming those fees, so its on their interest to prolong this with proposals that lead to a lengthier process as its happening. For what there is proposed, the work done, and the sum of money taken in bankruptcy fees, does not benefit FTX creditors and customers.

Customer assets were invested and are not going back to customers

The use of FTX customers funds to invest in various ventures is benefiting directly to FTX Venture Capital investors, FTX lenders, and other non-customers claims involved in this process. For example, over 80% of Anthropic investment was done with customer funds, GDA investment was also done with FTX customers. In total it is estimated to be valued in about \$5 billions, however this is not reflected to benefit to customers in the current plan.

FTX plans to dollarize FTX customer claims for Nov 11 2022. This is against ToS

Would like to start this stating that the dollarization of spot is against Terms of Services of FTX, since FTX customers funds were not going to be used or change in assets. Moreover, the proposed dates marks almost the bottom of the crypto market and worldwide indices. Additionally, asset are proposed to be priced to greatly benefit some pockets entities involved with FTX, and greatly for the detriment of others, such as those holding liquid crypto assets. We can see the example of FTT, MAPS, OXY being valued at \$0. These assets were mainly pushed and developed by FTX or entities around them. However, a similar asset like SRM, which was very associated with the before mentioned assets, is getting some value back. To find answers to why this is being done, one could see who owns most of SRM. From my knowledge, the majority is not FTX creditors.

In September 2023, it was enabled for FTX to sell, stake, and hedge the crypto holdings. At this point, the crypto market had significantly increased, so why do creditors have to see their crypto holdings valued at November 11th, 2022? We have little clarity if the assets have even been sold or the result of any of this operation.

Just as reference, here is a comparison of prices from petition date, and January 9th, 2024.

BTC: \$16,871.63 - Current: \$46,600.00

ETH: \$1,258.84 - Current: \$2,296.00

SOL: \$16.24 - Current: \$101.10

Because of this, I am proposing the following plans:

Plan 1 – Crypto/USD + Equity distribution

We have the example of Celsius bankruptcy case. In this case, they are getting a crypto distribution (Bitcoin and Ethereum), and an equity distribution (NewCo). This helps customers get some value in Bitcoin and Ethereum, as well of a tokenized asset that gives the opportunity to acquire some extra value in the future. Without this tokenized asset, there is no chance to make customers whole in Celsius. This model can be adopted in the FTX bankruptcy case and give affected customers a chance for a whole recovery with an additional equity distribution. This equity distribution can be represented in the form of the new exchange FTX 2.0, and/or the assets from the FTX VC portfolio and other parts from FTX.

Plan 2 – Dollarize assets

This is a revision of the proposed motions that I am writing in opposition. If we want to dollarize FTX customer claims, there are two ways that can benefit customers:

A) Select a date to dollarize assets in between March 20th and Oct 20th 2023. This date is chosen as it represents the average timeframe between FTX bankruptcy date, and today's timeframe. Coincidentally, the average marketcap of total crypto market since FTX bankruptcy and today, is mostly in that date range. We could select, for example. Dollarization in June 21st.

B) If the above scenario is not viable, and we are unable to find other dates than November 11th, 2022, it would be best to dollarize it in the same day at 9am, since there is a 5% difference between the proposed timeframe, 10am.

I would also want to highlight here that creditors that held coins with no volume/liquidity, are being paid better than people who held coins with volume like ETH and BTC. Also, as mentioned at the initial paragraph of this chapter with SRM token, it should be examined which tokens are being set to zero and which not, as well as who holds those tokens that benefit from this motion.

Plan 3 – Non dollarization of assets

Honor the ToS of FTX, and return those holding crypto assets in the bankruptcy date, the crypto assets in whole. In my non expert eyes, what happened to FTX was a global attack to cryptocurrency holders and to the sovereignty of individuals. It was easy for a person like me to predict the bottom of the crypto markets because what would be most difficult scenario moving forward for retail like me, is to be returned our crypto value in dollars at the bottom of the market. Families and individuals that are not in the close circles of those who organized this collapse have been extremely damaged. These assets ended in the hands of many people, and they should be subject to claw backs. Everyone who participated should be held accountable in this process and should help to return the whole value of the crypto assets to the native holders of those assets. Who in retail is going to own any Bitcoin at these prices? I can no longer afford it and the opportunity cost to my life and those around me is very high.

Conclusion

Through understanding the difficulty of this case, it is of great challenge to make customers whole, but there is a chance of recovery if the parties involved work for FTX creditors. Therefore, I have aligned potential plans, learning in the process that some outcomes may affect some customers, and benefit others.

I encourage you in this difficult task, and have my full support with the outcome. I am sure a fair judgement will reach for customers, and I am grateful to have you in this case.

Respectfully submitted,



Gabriel Munoz Moreno, Creditor [REDACTED]

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